

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare Department -Khammam District- Revision Petition filed by Sri Damerla Mohan Rao S/o Devaiah & Others R/o.Padmati Narasapuram (V), Julurupadu (M), Khammam District and Smt Damerla Varakumari W/o Mohanrao Padmati Narasapuram (V), Julurupadu (M), Khammam District with regard to Acs.7.17 of land in Sy.No.26/RUU situated at Padmati Narsapuram (V) Julurupadu (M), Khammam District against the orders of the Additional Agent to Government, Bhadrachalam, Khammam District in CMA No.29/2005 dt.02.07.2005 - Dismissed - Orders - Issued

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 29

Dated: 19-05-2017

Read the following:-

- 1) Revision Petition filed by Sri Damerla Mohan Rao S/o Devaiah & Others R/o.Padmati Narasapuram (V), Julurupadu (M), Khammam District and Smt Damerla Varakumari W/o Mohanrao Padmati Narasapuram (V), Julurupadu (M), Khammam District dated 17.12.2005.
- 2) Govt.Memo.No.10442/LTR.2/2005, dt.27.01.2010
- 3) Govt.Memo.No.10443/LTR.2/2005, dt.28.01.2010
- 4) From the Addl.Agent to Government, Bhadrachalam, Khammam R.P. No. 10442/LTR-2/05 & RP No.10443/LTR-2/05 (CMA No.29/2005) Dt 24.01.2013.

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ORDER

In the reference 1st read above, Sri Damerla Mohan Rao S/o Devaiah & Others R/o.Padmati Narasapuram (V), Julurupadu (M), Khammam District and Smt Damerla Varakumari W/o Mohanrao Padmati Narasapuram (V), Julurupadu (M), Khammam District filed Revision Petition against the orders of the Additional Agent to Government, Bhadrachalam, Khammam District in CMA No.29/2005 dt.02.07.2005 Petition with regard to Ac, 7.17 of land in Sy.No.26/RUU situated at Padmati Narsapuram (V) Julurupadu(M), Khammam District.

2. In the reference 2nd & 3rd read above, the Project Officer & Addl. Agent to Government, Bhadrachalam was requested to furnish Para Wise Remarks and connected case records and in the reference 4th read above the Addl. Agent to Government, Bhadrachalam has furnished Para Wise Remarks and connected case records.

3. The Main grounds of the case are as follows:

- This case was initiated before the Spl. Deputy Collector(TW) Bhadrachalam between Lakavath Chander as Petitioner and Damerla Mohan Rao and (5) Others as Respondents for Scheduled land Ac.7.17 in Sy.No.26/Ru of Pamata Narsapuram of Julurupadu Mandal.
- The Special Deputy Collector after due verification of the records has observed that the being Tribal candidate has purchased the suit land on 5.3.2002 and where as the respondents are non-tribals and purchased the lands from the un-concerned parties on 15.25.2002 and 17.5.2002 after AP(SA)LTR 1/59 r/w Reg.1/70 which is void under law.
- In view of the above, the Special Deputy Collector (TW) has ordered for ejectment the Respondents from the suit land and restore the possession of the suit land to the Tribal Petitioner under cover of panchanama.
- Against the above orders, Sri Damerla Bakkamma & Others W/o.Paramaiah & (3) others have filed an appeal before the Agent to Government, Khammam and transferred to the Addl.Agent to Government, Bhadrachalam by the Agent to Government. The AAG after due verification of the records has observed that the Tribal Respondent was brought in to the defeat the provision of the L.T.R. Regulations, in a game between two non-tribals. This respondent was involved as a dummy for the Respondent -2 & 3 therein and this type of litigation should not be encouraged. The Tribal who is set to have been purchased the tribal land, has got a right to purchase the land under a registered sale deed, which can be verified by the Revenue authorities and about the purchasing capacity of the Tribal. As such the documents filed by both the parties are in no way helpful. The facts revealed in the court is that the transaction between two non-tribals took place long after the enactment of LTR sometime in 2000-2002 and due to the dispute over ownership between the relatives who claim to be joint owner, this matter came to the notice of the administration and later the parties are trying to cover it up by bringing in a tribal a dummy.
- In view of the above, the Additional Agent to Government dismissed the appeal petition and to set aside the Lower Court Order and directed the Mandal Revenue Officer, Julurpad to eject the person who ever is in possession of the schedule land and assign it to eligible Tribals.

(Contd...2)

4 The remarks of the Addl. Agent to Government, Bhadrachalam on the revision petition are as under:

- After losing the suit O.S.No.01/03 they brought Lakavath Chander (who is one of the Respondent in Revision petitions). The 3rd respondent (Lakavath Chandar) purchased Ac.13.17 gts of land on 05.03.02 for Rs.70,000/- from Damerla Peda Samelu, China Samelu and Damerla Pullaiah. The Revision Petitioners are Non tribals. If really the Respondent Lakavath Chandar purchased the land on 05.03.2002 and in possession of it, he would have made efforts to add as a party in OS No.1/03 before the Agency Divisional Officer Kothagudem. But he never made such efforts to join in the suit. Before the Additional Agent to Government also he has not made any efforts to prove his case. The litigation was created by the non-tribal Revision Petitioner and brought the tribal Respondent into the picture to defeat the provisions of the LTR and it a game between non tribals;
- The Lakavath Chandar who is a tribal is entitle to purchase the land through register sale deed. But he failed to do so. It is purely a dispute between non tribals and to overcome the Regulation, the 3rd respondent (Lakavath Chander) brought into existence to over the Regulation.
- The scheduled land is situated in the scheduled area and Government as promulgated Regulation called 1/59 as amended by 1/70 to protect the interest of the tribals. As per the said Regulation if any violations take place, LTR case will be initiated as per the Regulation. The Revision Petitioners are non tribals. They got dispute with other non tribals. The Lakavath Chandar is a tribal. This regulation is over riding effects over other laws including a court decree. So there is no question of surpassing the Civil Court orders in this matter.
- In LTR case the burden lies on the non tribals to prove their case. There is no necessity for the 1st Respondent, District Collector, Khammam to prove caste identity. The Revision Petitioner belongs to scheduled caste considered as non-tribal community.
- In this case Lakavath Chandar filed an application on 18.06.04 before the Spl. Deputy Collector(TW), Bhadrachalam. Basing on the application, LTR case No.270/04 was initiated. After due enquiry only the lower court is decided the matter. The civil court has no jurisdiction where the LTR provisions are attracted.
- Actually this case was initiated basing on the petition submitted by Lakavath Chandar who said to have been purchased the land from non tribals (Revision Petitioners) on 05.03.2002. But the said Lakavath Chandar has not filed any revision in this matter. The non tribals filed the Revision Petition.
- On perusal of the material available in the file, it may be observed that the scheduled land is situated in the scheduled area and Government as promulgated Regulation called 1/59 as amended by 1/70 to protect the interest of the tribals. As per the said Regulation if any violations take place, LTR case will be initiated as per the Regulation. The Revision Petitioners are non tribals. They got dispute with other non tribals. The Lakavath Chandar is a tribal. This regulation is over riding effects over other laws including a court decree; Actually this case was initiated basing on the petition submitted by Lakavath Chandar who said to have been purchased the land from non tribals (Revision Petitioners) on 05.03.2002. But the said Lakavath Chandar has not filed any revision in this matter. The non tribals filed the Revision Petition.
- In view of the above, that the orders passed by the Additional Agent to Government in CMA No.29/2005 dt.02.07.2005 is proper and legally correct in accordance with the provisions of APSA Land Transfer Regulation 1/59 as amended by 1/70.
- It is further submitted that as informed by the G.P., Hon'ble High Court, the petitioner has approached the High Court for early disposal of the case.

5. Government after conducting hearings and after careful examination of the Revision Petition and as verified from the documents produced before the authority as well as before the Addl.Agent to Government it is observed that;

- The Revision Petition was filed by 1) Sri Damerla Mohan Rao S/o Devaiah and 2) Smt. Damerla Vara Kumari W/o Mohan Rao R/o Padamati Narsapuram(V), Julurupadu(M), Khammam District aggrieved by the orders of the Addl.Agent to Govt., & Project Officer, ITDA, Bhadrachalam in CMA No.29/2005 dt:02-07-2005 cancelling the lower court order.
- The Revision Petitioners' main plea is that they have purchased the land to an extent of Ac 7.17 gts in Sy.No.26/RUU in Padamati Narasapuram(V), Julurupadu Mandal, Khammam District through

- different sale deeds dt. 15.05.2002 & 17.05.2002 from four persons and that they have been in continuous position from that date.

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- Further the persons stated to have sold the above land also filed affidavit confirming the above statement. As the matter stood thus another person by name Lakavath Chander S/o Mangya has also claimed that he has purchased the said land from Sri Damerla Pedda Samuel and Damerla China Samuel on 5.3.2002 and produced a copy of sada sale deed on Rs.100/- stamp paper.
- In this case Sri Lakhavath Chandar is tribe and claims that he has purchased the land in question on 05.3.2002. Being S.T. Candidate there is no restriction to him to get the sale deed registered in his name. But it is not there. Further his name does not figure in the pahanies also.
- As far as the claim of Sri Damerla Mohan Rao and Smt.Damerla Vara Kumari are concerned they belong to schedule caste community and as per their affidavit they have purchased the land in the year 2002. Hence their claim is hit by Act 1 of 1959 read with Act 1 of 1970. They are not entitled to purchase the said land.
- In the result above 3 persons are not rightful owners of the land in the light of Land Transfer Regulation 1959.

6. Government after careful examination of the matter hereby dismiss the Revision Petition filed by 1) Sri Damerla Mohan Rao 2) Smt.Damerla Vara Kumari and 3) Sri Lakhavath Chandar and uphold the orders issued by the Additional Agent to Government, Bhadrachalam in CMA No.29/2005 dt.02.07.2005.

7. The District Collector, Erstwhile Khammam District now Bhadradi Kothagudem Dist.is directed to take action to evict the persons whoever in the possession and the take the same into Govt. custody. The original case records received in the reference 3rd read above are returned herewith to the Addl. Agent to Government, Bhadrachalam.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

BENHUR MAHESH DUTT EKKA
SECRETARY TO GOVERNMENT

To
Sri Damerla Mohan Rao S/o Devaiah & Others R/o.Padmati Narasapuram (V),
Julurupadu (M), Erstwhile Khammam District now Bhadradi Kothagudem Dist.
Smt Damerla Varakumari W/o Mohanrao Padmati Narasapuram (V),
Julurupadu (M), Erstwhile Khammam District now Bhadradi Kothagudem Dist.
Sri Lakavath Chandar S/o: late Mangya , R/o: Machinapeta (V)
Julurupadu (M), Erstwhile Khammam District now Bhadradi Kothagudem Dist.
The District Collector, Erstwhile Khammam District now Bhadradi Kothagudem Dist.
The Project Officer, ITDA and Additional Agent to Government,
Bhadrachalam, Bhadradi Kothagudem District(w.e.)

Copy to :

The Spl. Deputy Collector(TW), Bhadrachalam,
Now Bhadradi Kothagudem District for information and necessary action.
The Tahsildar, Julurupadu (Ml) Mandal, Now Bhadradi Kothagudem District
for necessary action.
Sri Dannana Ramulu, Advocate, Bhadrachalam, B.Kothagudem District.
Sri Gopala Krishna Kalanidhi, Advocate, R/o: 1-2-234/44, B-31, New SBH Colony,
Domalguda, Hyderabad.
P.S to M(TW)/P.S. to Prl.Secretary(TW)
SF/SC

//FORWARDED::BY ORDER//

SECTION OFFICER